

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

CHASE BARFIELD, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:11-cv-04321-NKL
)	
SHO-ME POWER ELECTRIC)	
COOPERATIVE, et al.,)	
)	
Defendants.)	

FINAL JUDGMENT

On March 31, 2014, this Court ruled that Defendants Sho-Me Power Electric Cooperative and Sho-Me Technologies, LLC were liable for trespass and unjust enrichment for some, but not all of the easements identified by the Plaintiffs (as defined below). [Doc. 396]. Thereafter, Plaintiffs proceeded to trial for a jury determination of damages on their unjust enrichment claim. [Doc. 471]. On February 6, 2015, the jury returned a verdict awarding Plaintiffs \$79,014,140. [Doc. 619]. Sho-Me Power Electric Cooperative and Sho-Me Technologies, LLC subsequently filed motions for judgment as a matter of law and for a new trial, which were denied. [Doc. 730]. Requests for prejudgment and post-judgment interest have been resolved. [Doc. 701]. As more fully explained in the Court's Order granting Plaintiffs' Motion to Add Federal Rule of Civil Procedure 23(c)(3) Information to Judgment and granting in part Plaintiffs' Motion for Approval of a Plan of Allocation of the Judgment Funds and for Rule 54(b) Certification, the Court has determined that Plaintiffs' claims for relief have been finally adjudicated. [Doc. 731]. Accordingly, the Court hereby renders final judgment for the Plaintiffs, as more fully set forth below.

I. Parties

“Plaintiffs” as used in this Final Judgment are Dwight Robertson, Mike and Gina Biffle, and the following persons to whom the Rule 23(c)(2) notice was directed who have not requested exclusion:

All persons who own or owned land in Missouri underlying Sho-Me Power Electric Cooperative’s electric-transmission lines that is burdened by an easement with either Defendant or their subsidiaries, which easement does not contain an arbitration clause, and on or in which Sho-Me Power Electric Cooperative or Sho-Me Technologies, LLC has licensed fiber optic cable for commercial-telecommunication uses or has used fiber optic cable for commercial-telecommunication uses from January 21, 2005 until February 2, 2015.¹

Excluded from the class are: (1) persons who own only land underlying public streets or highways or who receive directly from any Defendant commercial communications service through the fiber-optic cable at issue in this litigation, (2) Defendants, all local, state, and federal governments and their agencies, any Indian tribe, and the trial judge,² and (3) the following persons with potential claims against Sho-Me Power Electric Cooperative and Sho-Me Technologies who timely requested exclusion from the class:³

The Halbert Dallas Ray & Illen Trust
Russell Kargel
Douglas S. Platten
Keith & Marilyn Tharp
Jack & Wynne Harris
John W. & Jean E. Greer
Harold Rex Allen, Jr.
Denise Green Roberts Trust

Defendants are Sho-Me Power Electric Cooperative, Inc. and Sho-Me Technologies, LLC.

II. Amount of Judgment

¹ See [Doc. 396] (Class Certification Order); [Doc. 321] (Motion to Amend by Interlineation); [Doc. 324] (Order Granting Motion to Amend by Interlineation); [Doc. 534] (Straup Declaration Concerning Mailing and Publication of the Notice, Administrative Services and Opt-Outs); and [Doc. 562] (Stipulation).

² See [Doc. 147-3 at 11 n.13]; see also [Doc. 52 at ¶ 11].

³ See [Doc. 534-3].

It is ordered and adjudged that pursuant to the verdict rendered by the jury on February 6, 2015, on Plaintiffs' claim for unjust enrichment against Defendants Sho-Me Power Electric Cooperative and Sho-Me Technologies, LLC in which liability had been determined in favor of Plaintiffs by the Court's March 31, 2014 Order [Doc. 396], the jury found Plaintiffs' damages as defined in Instruction 17 to be \$79,014,140.

It is further ordered and adjudged that pursuant to 28 U.S.C. § 1961, and this Court's June 1, 2015 Order, [Doc. 701], Plaintiffs are awarded post-judgment interest on the judgment amount of \$79,014,140, to be paid by Sho-Me Power Electric Cooperative and Sho-Me Technologies, LLC, with such interest to be calculated from February 6, 2015 until the judgment is satisfied, at the rate of 0.17%, compounded annually. Plaintiffs are not entitled to prejudgment interest. [Doc. 701].

Consistent with Federal Rule of Civil Procedure 54(d)(2) and this Court's Order on April 20, 2015, [Doc. 683], any motion for an award of class counsel attorneys' fees and expenses from the common fund must be filed no later than fourteen days after the Court rules on all post-trial motions and enters final judgment in this case. Any motion for a fee and expense award under Mo. Rev. Stat. § 523.283.4 shall be filed no later than thirty days after the Eighth Circuit issues its mandate upon conclusion of the expected appeal.

III. Allocation of Judgment

The method of identifying class members and the formula that will determine the division of damages among Plaintiffs may be found in the Plan of Allocation as approved by the Court, [Doc. 731], and attached to this Final Judgment as Exhibit A. Garretson Resolution Group, Inc. is appointed as the Claims Administrator and Straup Solutions, LLC is appointed as the Claims Center Director.

IV. Stay of Execution

Execution of this Final Judgment against Sho-Me Power Electric Cooperative and Sho-Me Technologies will be stayed in accordance with the Court's Order on August 21, 2015, [Doc. 729].

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Paige Wymore-Wynn
Clerk of Court

s/ Renea Matthes
By: Renea Matthes, Courtroom Deputy

Dated: August 21, 2015
Jefferson City, Missouri